

**THE HON'BLE SRI JUSTICE
GODA RAGHURAM**

W.P.No. 26122 of 2007

17-12-2007

Between:

Kavala Sanyasi Rao

Petitioner

And

The District Collector,
Visakhapatnam and others.

Respondents.

**THE HON'BLE SRI JUSTICE
GODA RAGHURAM**

W.P.No. 26122 of 2007

Oral Order:

The writ petition is filed on an apprehension that the respondents, in particular the second respondent would interfere with the possession and enjoyment of the petitioner, including the constructions made by him, on an extent of Ac.0-72 cents situate in survey No. 113/54 of Chinnamoshidiwada village, Pendurthy mandal,

Visakhapatnam district.

The petitioner claims to be the owner of the property. Earlier, when the property was situated within the jurisdiction of Chinnamoshidiwada village and the Grampanchayat was trying to interfere with the petitioner's enjoyment of the property, he filed W.P.No.1281 of 2005. By the order dated 02-02-2005 this Court directed the respondents therein including the Grampanchayat not to interfere with the peaceful possession and enjoyment of the petitioner's right over the property without following the due process of law. Thereafter, the Grampanchayat was absorbed into the Greater Vishakapatnam Municipal Corporation.

The petitioner alleges that on 03-12-2007, respondent Nos. 2 and 3 have come to the property and tried to forcibly dispossess the petitioner and demolish the constructions in the property.

On instructions, Sri Ranga Reddy, learned standing counsel for the second respondent submits that the second respondent cannot take any action against the petitioner to dispossess him or demolish the constructions in the property, even if the structures be illegal constructions, without following the due process of law. Learned standing counsel further submits that the second

respondent is well aware that any unlawful activity undertaken by the second respondent will lay open the public servant concerned, not only to possible criminal action, but also severe disciplinary proceedings including for removal from service and that no action for forcible and unlawful dispossession of the petitioner or demolition of the constructions thereon, is being undertaken by any official of the second respondent.

Learned Government Pleader for Revenue has appeared and makes identical submissions on behalf of respondent Nos. 1 and 3.

In the light of the above submissions, the apprehension of the petitioner has no basis. The petitioner is always at liberty to take appropriate steps for prosecution of any public servant violating law or even to defend his property by exercising the right of private defence and use proportionate force against any public servant unlawfully seeking to interfere with his property, apart from pursuing injunctive reliefs before the appropriate Court of civil jurisdiction.

In the light of the submissions made and availability of other effective remedies to the petitioner against a lawless exercise of power by the respondents, no specific Mandamus need be issued. Recording the submission

made by the learned standing counsel and the learned Government Pleader for Revenue for respondent Nos. 2 and 3 respectively, the writ petition is disposed of. No costs.

GODA RAGHURAM, J

Dated: 17-12-2007
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